

60654 00022381

Jay B. Itkowitz (JBI-5349)
Itkowitz & Harwood
305 Broadway, 7th Floor
New York, New York 10007
(646) 822-1801
Facsimile (212) 822-1402

*Attorneys for
Defendant/Plaintiff-in-Counterclaim
County Trust Mortgage Bankers Corp.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UBS REAL ESTATE SECURITIES, INC.,

Case No. 07-CV-3700
(SAS)

Plaintiff,

-against-

**DEFENDANT'S
RULE 26(a)(1)
INITIAL DISCLOSURE**

COUNTY TRUST MORTGAGE BANKERS
CORP.,

Defendant,

-----X

Defendant COUNTY TRUST MORTGAGE BANKERS CORP.

("County Trust" or "Defendant"), by its attorneys, ITKOWITZ & HARWOOD, located at 305 Broadway, 7th Floor, New York, New York 10007, in this action involving Plaintiff, UBS REAL ESTATE SECURITIES, INC. ("Plaintiff" or "UBS"), submits the following Initial Disclosures pursuant to Fed.R.Civ.P. 26 (a)(1). Because this matter is at its inception and County Trust may rely at trial on information of which it is

presently unaware, but which may be revealed during the course of discovery and/or investigation, County Trust reserves its right to supplement these initial disclosures at a later date.

DISCLOSURES REQUIRED BY F.R.C.P. 26 (a)(1)

Disclosure Required by Rule 26 (a)(1)(A)

The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Response to Rule 26 (a)(1)(A)

1. Hector Chomat
Cheryl Powell
Country Trust Mortgage Bankers Corp.
11430 N. Kendall Drive
Suite 300
Miami, Florida 33176
(305) 279-4445
2. UBS REAL ESTATE SECURITIES, INC. ("UBS" or
"Plaintiff") Employees:

Cosmos Fontaine
Julien Fontaine
John LaLanas
Will Whitehouse

The address and phone number for each of the above listed UBS employees is in Plaintiff's possession.

3. Former UBS Employees:

Rich Aquillone
William Moss

The last known address and phone number for each of the above listed former UBS employees is in Plaintiff's possession.

4. Nine alleged early loan defaulters:

Benjamin A. Zabroske
Carlos Upegui
Margot Carrillo
Wilbert Morris
Martha Gomez
Tomas V. Gonzalez
Beatriz Gomez
Ralmundo Farrray
Pedro Semaan

The address and phone number for each of the alleged early loan defaulters is in Plaintiff's possession.

5. Robert Powell
Colonial Bank
201 East Pine Street, Suite 730
Orlando, Florida 32801
(407) 835-6700

6. Debbie Johnston
A. Rodriguez
Mission Capital Advisors, LLC
1120 S. Capital of Texas Highway
Building 3, Suite 150
Austin, Texas 78746
(512) 327-0101

Disclosure Required by Rule 26 (a)(1)(B)

A copy of, or a description by category and location of, all documents, electronically stored

information, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

Response to Rule 26 (a)(1)(B)

Based upon its current knowledge, Defendant believes that it may use the following documents to support its claims or defenses:

1. A copy of the Mortgage Loan Sale Agreement by and between Plaintiff and Defendant, dated January 30, 2005 (copy annexed hereto as Ex. "A"); and
2. Copies of electronic emails between the parties, including concerning the Mortgage Loan Sale Agreement, and, the parties' volume incentive agreement alleged in County Trust's counterclaim (copies collectively annexed hereto as Ex. "B"); and,
3. Copies of loan account records for the nine alleged early loan defaulters are currently in the possession of UBS and/or servicing entities under its aegis and control; and

4. Other documents in support of County Trust's claims and Defenses, which are in the possession of UBS.

Disclosure Required by Rule 26 (a)(1)(C)

A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

Response to Rule 26 (a)(1)(C)

Defendant/Plaintiff-in-Counterclaim, County Trust, has calculated its damages in support of its counterclaim, based upon its volume incentive agreement with UBS, in the amount of \$312,786.00. Annexed hereto as Ex. "C" is a month-by-month summary spread sheet with amounts due and owing, which amounts are calculated by multiplying the amount of UBS funded loans for a particular month times an agreed upon incentive factor, resulting in a monthly amount owing. The total amount owing for unpaid monthly incentives appears at the end of the summary spreadsheet.

Also annexed as Ex. "C1" is a supporting and detailed spreadsheet of UBS funded loans, including loan number, property address, and UBS loan number, which establish the monthly totals of UBS funded loans in Ex. "C".

The amount set forth herein is higher than originally alleged by County Trust in its Counterclaim; County Trust's further review of records revealed that in addition to prior unpaid incentives for various months, UBS never paid volume incentives for March and April, 2005, and never paid any volume incentives after September, 2005.

Disclosure Required by Rule 26 (a)(1)(D)

For inspection and copying under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Response to Rule 26 (a)(1)(D)

None of which Defendant is presently aware.

Defendant's Initial Disclosures are based on current information and belief. Defendant specifically reserves the right to supplement these responses at a later date. By making these disclosures, Defendant does not represent that it is identifying every tangible thing or witness relevant to this lawsuit, nor does Defendant waive its right to object to the production of any documents or tangible thing on the basis of any privilege, the work product doctrine, relevancy, undue burden, or any other valid objection. Rather, Defendant's disclosures represent its good faith attempt to identify information subject to the disclosure requirements of Fed.R.Civ.P. 26 (a)(1).

Dated: New York, New York
November 6, 2007

ITKOWITZ & HARWOOD
Attorneys for Defendant
COUNTRY TRUST MORTGAGE
BANKERS CORP.

By: 

Jay B. Itkowitz (JBI- 5349)
305 Broadway, 7th Floor
New York, New York 10007
(646) 822-1801

TO: MILLER & WRUBEL, P.C.
Attorneys for Plaintiff
UBS REAL ESTATE SECURITIES, INC.
Joel M. Miller
Charles R. Jacob, III
Jeremy M. Sher
250 Park Avenue
New York, New York 10177
(212) 336-3500